

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE NO.

NANCY BROOKS and  
G. ALAN BROOKS,  
her husband,

Plaintiffs,

v.

THE RITZ-CARLTON  
HOTEL COMPANY, L.L.C.,

Defendant.

03 - 22165  
CIVIL MARTINEZ

MAGISTRATE JUDGE  
DUBÉ

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**COMPLAINT**

Plaintiffs, NANCY BROOKS and G. ALAN BROOKS, her husband, sue the Defendant, THE RITZ-CARLTON HOTEL COMPANY, L.L.C., ("RITZ"), and state:

**GENERAL ALLEGATIONS**

1. This is an action for money damages in excess of \$75,000.00.
2. Diversity jurisdiction is vested in this Court pursuant to 28 U.S.C. §1332.
3. Venue is proper in this forum.
4. At all times material, Plaintiff NANCY BROOKS was an adult resident of Miami, Florida, and otherwise sui juris.
5. At all times material, Plaintiff G. ALAN BROOKS was an adult resident of Miami, Florida; was the lawful husband of NANCY BROOKS, and was otherwise sui juris.
6. At all times material, RITZ was a foreign limited liability company, duly registered, with its principal place of business in Maryland. RITZ, a hotel company, does business worldwide, and RITZ owns several major hotels in the Southern District of Florida, as well as maintaining an

international sales office here.

7. At all times material, RITZ owned and operated the RITZ-CARLTON GOLF & SPA RESORT, ROSE HALL, JAMAICA, a resort property located in or near Montego Bay, Jamaica (“the Resort”). The Resort encompasses, among other facilities, a golf course and hotel, both of which were designed, built, and operated by RITZ.

8. The golf course in question, the “White Witch” course, sits on 600 acres of hilly, undulating property, and has several holes that have steep inclines or declines that must be traversed by players. However, the severe sloped areas of the course have insufficient or no warnings.

9. On or around December 14, 2002, Plaintiffs, who were guests at the Resort, decided to play golf.

10. Plaintiffs registered and paid for a round of golf, and were issued a golf cart owned by RITZ. At that time, Plaintiffs were informed by an employee or agent of RITZ that the Resort’s policy required Plaintiffs to hire a caddy, which the Resort provided. Plaintiffs were issued a caddy named “Delroy.” Delroy was the actual or apparent agent of RITZ, and at all times material was within the course and scope of his agency.

11. The twelfth hole of the course has a severe slope. After G. ALAN BROOKS teed off, Plaintiffs entered the cart and began to drive towards the drop point for the hole.

12. While in the cart, Plaintiffs encountered a severe incline. Unbeknownst to them, Delroy, a large man, had boarded the rear of the cart and was standing behind the golf bags while the cart was moving.

13. The cart began to have trouble making it up the incline. Suddenly, without warning, Delroy yelled something and jumped off of the back of the cart. The force of his jump caused the cart to flip over backwards, ejecting the Plaintiffs and injuring them. G. ALAN BROOKS fortunately

suffered minor injuries; however, NANCY BROOKS suffered severe injuries, including a broken back.

14. Employees or agents of the Resort were summoned to the scene; however, they negligently handled it in such a way as to further injure the Plaintiffs, particularly NANCY BROOKS.

#### **COUNT I - DIRECT CLAIM OF NANCY BROOKS**

15. Plaintiff realleges Paragraphs 1-14 and incorporates them herein.

16. At all times material, NANCY BROOKS was a business invitee of RITZ.

17. As such, RITZ had a duty to exercise due care for the safety of NANCY BROOKS and other Resort guests.

18. This duty included, but was not limited to, the duty to properly train and supervise its staff; the duty to properly maintain its course; the duty to warn NANCY BROOKS and other Resort guests of known dangerous conditions such as the severe slopes on the course; to properly design and construct the course so as to avoid excessive risk to guests; and to avoid taking actions that RITZ or its agents knew or should have known would or could result in injury to guests, including NANCY BROOKS.

19. The actions of RITZ as described herein breached RITZ's duty to NANCY BROOKS.

20. As a direct and proximate result of RITZ's negligence as described herein, Plaintiff suffered bodily injury, disfigurement, expenses of hospitalization and medical and nursing care, pain and suffering, mental anguish, lost wages in the past and future, loss of the ability to earn money, in the past and in the future, and loss of the ability to enjoy life, in the past and in the future. These losses are permanent and/or continuing and Plaintiff will continue to suffer these losses in the future.

#### **COUNT II - DIRECT CLAIM OF G. ALAN BROOKS**

21. Plaintiff realleges Paragraphs 1-14 and incorporates them herein.

22. At all times material, G. ALAN BROOKS was a business invitee of RITZ.

23. As such, RITZ had a duty to exercise due care for the safety of G. ALAN BROOKS and other Resort guests.

24. This duty included, but was not limited to, the duty to properly train and supervise its staff; the duty to properly maintain its course; the duty to warn G. ALAN BROOKS and other Resort guests of known dangerous conditions such as the severe slopes on the course; to properly design and construct the course so as to avoid excessive risk to guests; and to avoid taking actions that RITZ or its agents knew or should have known would or could result in injury to guests, including G. ALAN BROOKS.

25. The actions of RITZ as described herein breached RITZ's duty to G. ALAN BROOKS.

26. As a direct and proximate result of RITZ's negligence as described herein, Plaintiff suffered bodily injury, disfigurement, expenses of hospitalization and medical and nursing care, pain and suffering, mental anguish, lost wages in the past and future, loss of the ability to earn money, in the past and in the future, and loss of the ability to enjoy life, in the past and in the future. These losses are permanent and/or continuing and Plaintiff will continue to suffer these losses in the future.

### **COUNT III - CONSORTIUM CLAIM OF G. ALAN BROOKS**

27. Plaintiff realleges Paragraphs 1-14 and incorporates them herein.

28. The actions of RITZ, as described, were negligent.

29. The negligence of RITZ, as described herein, has deprived G. ALAN BROOKS of the support, services and consortium of his wife, NANCY BROOKS.

### **COUNT IV - CONSORTIUM CLAIM OF NANCY BROOKS**

30. Plaintiff realleges Paragraphs 1-14 and incorporates them herein.

31. The actions of RITZ, as described, were negligent.

32. The negligence of RITZ, as described herein, has deprived NANCY BROOKS of the support, services and consortium of her husband, G. ALAN BROOKS.

**JURY TRIAL DEMANDED**

33. Plaintiffs demand trial by jury on all issues so triable.

WHEREFORE, Plaintiffs demand judgment for money damages, court costs, prejudgment interest on all liquidated damages, and all other relief the Court sees fit to grant, after trial by jury on all issues so triable.

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By: 

Michael B. Feiler  
Fla. Bar No. 098477

JS 44  
(Rev. 12/96)

## CIVIL COVER SHEET

03-22165

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

NANCY BROOKS and G. ALAN BROOKS, her husband

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Dade  
(EXCEPT IN U.S. PLAINTIFF CASES)(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
FEILER, LEACH MCCARRON, P.L. (305) 441-8818  
901 Ponce de Leon Blvd., Penthouse Suite  
Coral Gables, Florida 33134 *per Martinez Leach*(d) CIRCLE COUNTY WHERE ACTION AROSE DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS

## DEFENDANTS

THE RITZ-CARLTON HOTEL COMPANY, INC.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

ATTORNEYS (IF KNOWN)

## II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |                            |                                       |                            |                                       |
|----------------------------|---------------------------------------|----------------------------|---------------------------------------|
| PTF                        | DEF                                   | PTF                        | DEF                                   |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1            | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3            | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |
- Citizen of This State
- Citizen of Another State
- Citizen or Subject of a Foreign Country
- Incorporated or Principal Place of Business in This State
- Incorporated and Principal Place of Business in Another State
- Foreign Nation

## IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

## V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

A CONTRACT	A TORTS	FORFEITURE/PENALTY	A BANKRUPTCY	A OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input checked="" type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property, 28 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 159 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>A PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions A OR B
<b>A REAL PROPERTY</b> <input checked="" type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>A CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>A LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>B SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

## VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

28 USC 1332 Premises liability in foreign country

LENGTH OF TRIAL

via 5 days estimated (for both sides to try entire case)

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐

DEMAND \$ Over 75000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ YES ☐ NO

## VIII. RELATED CASE(S) (See instructions): IF ANY

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE